

APPEAL NO. 022432
FILED OCTOBER 31, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 30, 2002. With respect to the issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. In his appeal, the claimant argues that the hearing officer's determination that he did not satisfy the good faith requirement under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) by returning to work in a job relatively equal to his ability to work is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement in the qualifying period for the second quarter of SIBs by demonstrating that he had returned to work in a job relatively equal to his ability to work pursuant to Rule 130.102(d)(1). It is undisputed that the claimant only worked part time, 20 to 25 hours per week, in the qualifying period. The hearing officer was not persuaded that the claimant was limited to part-time work in the qualifying period. In so finding, the hearing officer noted that the claimant worked an additional 5 to 15 hours per week during a portion of the qualifying period in an attempt to help his stepfather and stepbrother start an ornamental wrought iron business, work for which the claimant was not paid. The hearing officer determined that, although the claimant's job in the qualifying period was within his work restrictions, it was not a job that was relatively equal to his ability to work in terms of the number of hours worked. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb that determination, or the determination that the claimant is not entitled to SIBs for the second quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **WESTERN INDEMNITY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BOB MORRIS
820 GESSNER, SUITE 1000
HOUSTON, TEXAS 77024.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Michael B. McShane
Appeals Judge